

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LONGS DRUG STORES CALIFORNIA,
INC.,

Plaintiff,

v.

FEDERAL INSURANCE CO.; DOES 1
through 50,

Defendants.

No. C 03-01746 JSW

**ORDER RE FURTHER BRIEFING
ON PRE-JUDGMENT INTEREST**

At the eleventh hour, Defendant Federal Insurance Company (“Federal”) claims it would be prejudiced by being denied an opportunity to present oral argument at the second hearing on the motion for summary judgment filed by Plaintiff Longs Drug Stores California, Inc. (“Longs”). Given the fact that Federal has had every opportunity to present its arguments and evidence in opposition to Long’s motion, the Court concludes that Federal has not demonstrated any prejudice from the Court vacating the second hearing. If Federal suffers any harm, it would be due to Federal’s own delay in responding to Long’s damage calculations. Longs provided notice to Federal as early as November 30, 2004, over eight months ago, that it was seeking 10% compounded annual interest, and that such interest accrued from the date of the invoices. (Declaration of Paul R. Johnson in support of Long’s motion for summary judgment, ¶ 7, Ex. 4.) Nevertheless, the Court will provide Federal an opportunity to provide supplemental briefing on pre-judgment interest. Federal may file and serve a brief no longer than four pages by 4:00 p.m. on Monday, August 15, 2005. Longs may file and serve a response no longer than four pages by

1 4:00 p.m. on Monday, August 22, 2005. In its response, Longs shall provide the daily rate at
2 which the interest would accrue if the pre-judgment interest is limited to simple interest versus
3 compounded interest.

4 Because Federal could have but failed to brief this issue in its supplemental opposition
5 on the issue of damages, and as a sanction for creating additional delay on Plaintiff's motion,
6 Federal is HEREBY ORDERED to pay the costs incurred by Longs in responding to Federal's
7 supplemental briefing on the issue of pre-judgment interest. Longs shall file a declaration
8 detailing such costs with its responsive brief.

9 **IT IS SO ORDERED.**

10
11 Dated: August 8, 2005



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE

United States District Court

For the Northern District of California